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10/806,713

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Yuko Nishikawa

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EXAMINER

TAYLOR, JOSHUA D

ART UNIT

PAPER NUMBER

4157

MAIL DATE

DELIVERY MODE

10/23/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/806,713

Applicant(s)

NISHIKAWA ET AL.sh

Examiner

Josh Taylor

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

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## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent; or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, *except* that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English.

2. Claims (1-7, 9-12) rejected under 35 U.S.C. 102(e) as being anticipated by Nakamura et al., US 2003/0167466 A1

Regarding claim 1, Nakamura et al discloses as claimed:

A method comprising:

- providing access to a plurality of characterizing descriptors for each of a plurality of discrete selectable items of audio/video content ( [0063-0065] i.e., accepting instruction for display EPG data);
- providing a program guide by simultaneously displaying a plurality of the characterizing descriptors for each of a plurality of the discrete selectable items using a browsing and selection interface that bears at least some of the characterizing descriptors

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and wherein three spatial dimensions for the browsing and selection interface are simultaneously displayed, such that the browsing and selection interface is depicted as at least one three dimensional object (fig. 3, [0063-0064], also [0025]-[0029]).

Regarding claim 2:

The method of claim 1 wherein the browsing and selection interface is displayed on at least one three dimensional cylinder (fig. 3, [0011], [0063-0064]).

Regarding claim 3:

The method of claim 1 wherein the plurality of discrete selectable items of audio/video content are embodied in a plurality of media (see [0110]).

Regarding claims 4-6, which recite:

The method of claim 1 and further comprising: - responding to a remote control device by scrolling a display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items (claim 4);

The method of claim 4 and further comprising: - responding to a remote control device by altering the display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items on a page basis (claim 5);

The method of claim 1 and further comprising:- responding to a remote control device by signaling user selection of a particular one of the discrete selectable items of audio/video content (claim 6); The method of claim 6 and further comprising:- sending a signal indicating user selection of the particular one of the plurality of discrete selectable items of audio/video content (claim 7);

Nakamura et al also disclose the aforementioned steps as prescribed through paragraphs [0105]-[0106].

Regarding claims 9-11, which recite:

An interactive program guide system comprising:

- characterizing descriptors for each of a plurality of discrete selectable items of audio/video content;
- control circuitry that displays a plurality of the characterizing descriptors using a browsing and selection interface that bears at least some of the characterizing descriptors and wherein three spatial dimensions for the browsing and selection interface are simultaneously displayed, such that the browsing and selection interface is depicted as at least one three dimensional object (claim 9);

The interactive program guide system of claim 9 wherein the browsing and selection interface is displayed on at least one three dimensional cylinder (claim 10);

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The interactive program guide system of claim 9 wherein the plurality of discrete selectable items of audio/video content are embodied in a plurality of media (claim 11);

Nakamura et al discloses the aforementioned limitations as claimed (see [0006]-[0010]).

Regarding claim 12:

The interactive program guide system of claim 9 and further comprising:

- a remote control device; and wherein the control circuitry is operably responsive to the remote control device (see [0006]-[0010] and [0105]-[0106]).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows: (*See MPEP Ch. 2141*)

- a. Determining the scope and contents of the prior art;
- b. Ascertaining the differences between the prior art and the claims in issue;
- c. Resolving the level of ordinary skill in the pertinent art; and
- d. Evaluating evidence of secondary considerations for indicating obviousness or nonobviousness.

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4. Claims (8 and 13) rejected under 35 U.S.C. 103(e) as being unpatentable by Nakamura et al., US 2003/0167466 A1 as applied to claims 1 and 9 above respectively, and further in view of Sai et al., US 6,822,661:

Regarding claim 8, Nakamura et al discloses the method of claim 1, but does not disclose further comprising:

- using a jog dial to do at least one of:
- scrolling a display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items;
- paging a display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items. However, Sai et al does (see column 5, lines 11-14). Sai et al. teach that a jog dial could be used in place of directional buttons.

Therefore, one skilled in the art would have found it obvious to use a jog dial as an alternative to directional buttons.

Regarding claim 13, see rejection of claim 8 above.

#### **Contact Info**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Josh Taylor whose telephone number is (571) 270-3755. The examiner can normally be reached on 8am-5pm, M-F, EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on (571) 272-7332. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
VU LE  
SUPERVISORY PATENT EXAMINER